

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Antrell Jermaine Fordham, #262332,)	C.A. No. 8:05-2230-CMC-BHH
)	
Plaintiff,)	
)	
v.)	OPINION and ORDER
)	
A. Coker and C. Miller,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff's *pro se* complaint filed pursuant to 42 U.S.C. § 1983. Plaintiff filed his complaint on August 3, 2005, seeking relief for an alleged deprivation of property. Defendants moved for dismissal under Fed. R. Civ. P. 12(b)(6) on September 22, 2005.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pre-trial proceedings and a Report and Recommendation. On March 2, 2006, the Magistrate Judge issued a Report recommending that Defendants' motion for dismissal be denied. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if they failed to do so. Defendants have filed no objection and Plaintiff has filed what appears to be a motion to amend his complaint in light of the concerns expressed by the Magistrate Judge in her Report.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which

a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Defendants’ motion to dismiss is **denied**.

Plaintiff has filed material with this court which this court construes as a motion to amend his complaint. This motion is **granted**. Defendants shall respond to the original complaint, and this amendment, within the time period provided for in the Rules.¹

IT IS THEREFORE ORDERED that Defendants’ motion to dismiss is **denied**. This matter is re-referred to the Magistrate Judge for further proceedings.

¹Plaintiff has filed a request to return the “attachments” which accompany his amendment. This request is **denied**. By sending this material to the court, it has become a part of the record of this case, and this court cannot now return it. If these were Plaintiff’s only copies of this material, he may secure a photocopy of these materials by requesting such from the Clerk of this court.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
March 21, 2006